

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 11-12899

DAVID POTTER,

Defendant.

ORDER GRANTING MOTION FOR ALTERNATE SERVICE

Before the court is Plaintiff's motion for alternate service. Plaintiff states that its process server has made six attempts at service at different times of the day at the known address of Defendant David Potter. Plaintiff has also tried service by certified mail, but was unsuccessful. Plaintiff contends that it appears that Defendant is evading service and Plaintiff thus asks the court for permission to effect service by alternate means.

Service of a complaint filed in a federal court is proper by any method permitted for serving a complaint by the state in which the federal court is located. Fed. R. Civ. P. 4(e)(1). Under Michigan law, "the court may by order permit service of process to be made in any other manner reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard." Mich. Ct. R. 2.105(I)(1). Such alternative service may only be ordered upon "a showing that service of process cannot reasonably be made as provided" otherwise. Mich. Ct. R. 2.105(I)(1). Tacking a copy of the summons and complaint to the door of the address of a defendant may be

considered a “manner reasonably calculated to give the defendant actual notice,” especially when accompanied by a mailing. See *Dehaan v. Tsarnas*, No. 289967, 2010 WL 2384921, at *4 (Mich. Ct. App. June 15, 2010) (per curiam); *Bennett v. Davidson*, No. 250694, 2005 WL 1123603, at *1 (Mich. Ct. App. May 12, 2005) (per curiam).

Here, Plaintiff has made the requisite showing that service of process cannot reasonably be made as provided in the rules due to Defendant’s apparent evasion. Therefore, the court will grant the motion and allow alternate service by a combination of posting on Defendant’s front door, publication in a local newspaper, and first class mail. Accordingly,

IT IS ORDERED that Plaintiff’s “Motion for Alternate Service” [Dkt. # 3] is GRANTED and alternate service is ALLOWED as specified above.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 26, 2011

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 26, 2011, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522